#### RECEIVED CENTRAL FAX CENTER

T-023 P.01

NOV **0 1** 2004

## FAX TRANSMISSION

From-LAHIVE & COCKFIELD, LLP

DATE:

November 1, 2004

PTO IDENTIFIER:

Application Number 09/852070-Conf. #3533

Patent Number

Inventor:

Daniel K. HILTGEN et al.

MESSAGE TO:

US Patent and Trademark Office

**FAX NUMBER:** 

(703) 872-9306

FROM:

LAHIVE & COCKFIELD, LLP

Kevin J. Canning

PHONE:

(617) 227-7400

Attorney Dkt. #:

SMQ-122

PAGES (Including Cover Sheet):

Twenty-four (24)

#### CONTENTS:

Transmittat (1 page);

Fee Transmittal (1 page, in duplicate);

Amendment in Response to Non-Final Office Action (15 pages);

Two (2) Terminal Disclaimers to Obviate a Provisional Double Patent Rejections

Over a Pending "Reference" Application for U.S. Patent Application Serial Nos. 09/852,113 and 09/851,923 (2 pages),

Statement Under 37 CFR 3 73(b) (1 page);

One-Month Request for Extension of Time Under 37 CFR 1 136(a) (1 page), and

Certificate of Transmission under 37 CFR 1.8 (1 page)

The Commissioner is authorized to charge \$330.00 to Deposit Account 12-0080.

If your receipt of this transmission is in error, please notify this firm immediately by collect call to sender at (617) 227-7400 and send the original transmission to us by return mail at the address below.

This transmission is intended for the sole use of the individual and entity to whom it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. You are hereby notified that any dissemination, distribution or duplication of this transmission by someone other than the intended addressee or its designated agent is strictly prohibited.

#### LAHIVE & COCKFIELD, LLP

28 State Street, Boston, Massachusetts 02109 Telephone: (617) 227-7400 Facsimile: (617) 742-4214

### 61774242HECEIVED T-023 P.02 CENTRAL FAX CENTER

NOV 0 1 2004

TRANSMITT		Application Numb				
TRANSMITT	ΔI			09/852070-Conf. #3533		
	Filing Date		May 9, 2001			
FORM	First Named Inve	ntor	Daniel K. HILTGEN			
(to be used for all correspondence after	indal filadi	Art Unit		2122/P6281		
(to be used for an contequalisation after	numai semby	Examiner Name		M. J. Yigdall		
Total Number of Pages in This Sybmiss	ion	Attorney Docket	Number	SMQ-122		
EN	CLOSURES	Check all that	apply)			
Fee Transmittal Form	Drawing(s)		Π̈́Γ	After Allowance Communication to TC		
Fes Attached	Licensing-rei	ated Papers		Appeal Communication to Board of Appeals and interferences		
x Amendment/Reply	Petaion			Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)		
After Final	Petrion to Co			Propnetary Information		
Affidav#s/declaration(s)		mey, Revocation rrespondence Addre	ass [	Status Letter		
x Extension of Time Request	X Two (2) Tem	nnal Disclaimers		X Other Enclosure(s) (please		
Express Abandonment Request	Refund	a	Statement Under 37 CFR 3.73(b) and Certificate of Transmission			
Information Disclosure Statement	of CD(s)	under 37 CFR 1.8.				
Centified Copy of Priority Document(s)				· ·		
Reply to Missing Parts/ Incomplete Application	·····					
Reply to Missing Parts under 37 CFR 1 52 or 1 53				•		
□□ 37 CFR 1 52 or 1 53				•		
·						
SIGNATI	JRE OF APPLICA	NT, ATTORNE	Y, OR A	 Gent		
Firm Name  LAHIVE & COCKEIE	: D 11 B					
Signature Kew )	C	,	•			
Printed name Kevin J. Canning	·					
Date November 1, 2004		Reg	No	35,470		
			·			
I hereby cerbify that this correspondence is being facsimile transmitted to the Patent and Trademark Office, facsimile no (703) 872- 9306 at Mail Stop Amendment, Commissioner for Patents, P.Q. Box 1450, Alexandria, VA 22313-1450, on the date shown below.  Dated, November 1, 2004  Signature:   (Kevin J. Canning)						

PTO/SB/17 (10-04-2)
Approved for use through 7/31/2006 OM6 0651-0032
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

under the Paperwork Requestion Act of 1995, no person are requi	red to r	espona t	0 # 0011	SERVOU D			
FEE TRANSMITTAL	ł				Complete if Known 87 09/852070-Conf #3533		
1				Numbe	May 9, 2001		
for FY 2005 Eticovo 10/01/2004 Patont toos are subject to annual revision		Filing Date			5 : 14 IN TOTAL		
		First Named Inventor			M. J. Yigdali		
		Examiner Name					
Applicant claims small entity status. See 37 CFR 1 27		Art Unit			2122		
TOTAL AMOUNT OF PAYMENT (\$) 330.00		Attorney Docket No SMQ-122/P6281					
METHOD OF PAYMENY (cneck all that apply)				FEE	CALCULATION (continued)		
Check Card Order Other Nane	3. A	אווומס	MAL	FEE8			
X Deposit Account	Large	e Entity		Entry	_		
Account 12-0080	Fee Code	Fee (\$)	Fee Code	Fox (\$)	Fee Dascription Fee Paid		
Deposit	1051	130	2051	65	Surcharge – late fising fee or oath		
Account Lanive & Cockfield, LLP	1052	50	2052	25	Surcharge = late provisional flung tee or cover		
The Director is authorized to: (check all that opply)	1022	30	2032	20	shoet		
X Charge twe(s) indicated palow X Creat any overpayments	1053	120	1053	Oc.	Non-English specification		
X Charge any additional fee(s) or any underpayment of tee(s)	1812	2,520	1812	2,520	For filing a request for an parte repairs/nation		
Charge tec(a) indicated below, except for the filing fee to the above-identified deposit account.	1804	920*	1804	920°	Requesting publication of SIR prior to  Examine action		
	1805	1,840*	1805	1,840*	Requesting publication of SiR after		
	1805	1,940	1000	1,640	Exquition action		
FEE CALCULATION	1251		2251	<b>5</b> 5	Extension for reply within first month 110.00		
1. BASIC FILING FEE	1252 1253		2252 2253	215 490	Exension for rapiy within second month  Exension for rapiy within third month		
Large Entity Small Entity Fee Fee   Fee Paid   Fee Paid	1254		2254	765	Exension for reply warm fourth month		
Cade (\$) Code (\$)	1255		2255		Expension for reply within firm month		
1001 790 2001 395 Limity filing fee 1002 \$50 2002 175 Desagn filing fee	1401		2401		Notice of Appeal		
1003 550 2003 275 Plant fluing fee	1402	-	2402	170	Filing a priet in support of an appeal		
1004 790 2004 395 Reassuc filing tec	1403	300	2403	150	Request for oral hosping		
1005 160 2005 80 Provisional filing fee	1451		1451		Petition to institute a proble use proceeding		
SUBTOTAL (1) (\$) 0.00	1452 1453		2452 2453	55 685	Petition to revive – unavoidable Petition to revive – unimentional		
2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE	1501		2501	685	Utility issue fee (or reissue)		
Extra Fee from	1502		2502	245	Design issue fee		
Total Claims -20° = x = x	1503	660	2503	330	Plant issue tee		
independent -3	1460	130	1460	130	Petitions to the Commissioner		
Claims Multipre Dependent	1807	50	1807	50	Processing fee under 37 CFR 1 17(q)		
Large Entity Small Entity	1806	180	1806	160	Submission of Information Disclosure Strik		
Fee Fee Fee Fee Fee Description	8021	40	BQ21	40	Recording each patent assignment per property (times number of properties)		
200 (\$) Code (\$) 2002 18 2202 9 Claims in except of 20	1809	790	2809	395	Filing a submission after final rejection		
1201 BB 2201 44 independent claims in excess of 3	Į.		i		(37 CFR 1 129(a)) For each additional invention to be		
1203 300 2203 150 Multiple dependent claum, if not pead	1810		2810	395	examined (37CFR 1 129(D))		
1204 B8 2204 44 Ressue independent clamb over original patent	1801		2801	395	Request for Communed Examination (RCE) Request for expedited examination		
1205 18 2205 9 ™ Roussub claims in eacess of 20	1802		1802	900	of a design application		
and over original patent		tee (spe	• •	1814	Statutory Discrapner 220 00		
SUBTOTAL (2) (8) 000 *Reduced by Basic Fring Fee Para SUBTOTAL (3) (5)					e Paid SUBTOTAL (3) (5) 330 00		
**or number previously paid, if greater: For Reissues, see above							
SUBMITTED BY	Regis	(Complete (# applicable))					
Name (Print/Type) Kevin J. Canning		тенерлале (617) 227-7400					
Signature 91111   Date November 1, 2004							
	::::			_			
I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office, facsimile no. (703) 872- 9306 at MS Amendment. Commissioner for Patents, P.O. Box 1450, Alexandria, VA. 22313-1450, on the date shown below							
May t							
Dated, November 1, 2004 Signature. (Kevin J Canning)							



PTO/SB/17 (10-04-2)
Approved for use trickign 7/31/2006 OMB 0651-0032
Patent and Tragement Office, U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no person are requ		A 100.00 E			Comi	olete H Kno	ΛWI)	
FEE TRANSMITTAL	_ }	Angly	ation !				D-Conf. #3533	
for FY 2005		Mahicanolittanian			<u> </u>		May 9, 2001	
		*********		Invent	<del></del>	Daniel K. I		
Effective 10/01/2004 Patient tees are subject to annual revision			ner Na			M J Yigda		
Con 37 CFR 1 27	,					2122	411	
Applicant cialinis small entity status See 37 CFR 1 27		Arrome		N/		SMQ-122/	meses	
TOTAL AMOUNT OF PAYMENT (\$) 330.00		Attorre	y Dou	oket No				
METHOD OF PAYMENT (cneck at that apply)	1			FEE	CALCUI	LATION (con	(unued)	~
Cneck Credt Money Other None  X Deposit Account	3. A	ADDITIO	)NAL I	FEES				
Decoast		e Engry	_	Enuty	_			
Deposit Account 12-0080	Feq Code	Fee (\$)	Fov Code	F66 (\$)	,	Fee Descr	rîptıon	Fee Paid
Deposit	1051		2051	85	ervcµ#t@e	ont grater taken	- or oath	, <del></del>
Account Lanive & Cockfield, LLP			2052	25	Surcharge		onas titing fee or cover	<del></del>
The Director is grimoused to (cuecy as was abbit)	1052		1		sneet	ŕ	· · · -	
X Crisings (69(6) indicated below X Credit any overplayments	1055	130	1023	130	Non-Englis	ish specification	•	
X Charge any eddsonal fee(s) or any uniderplayment of ros(c)	1812	2 2,520	1812	2,520	For filing at	Perferent for ex. pr	nois resultanation	
Charge (sets) indicated below, except for the filing fee to the apove-isemified deposit account.	1804	1	1804	850.	Requesting Examiner of	ecrou of habication of	of SIR prior to	
	1805		1805		Requesting Examiner (	ng publication of ecoon	/ SIR atter	
FEE CALCULATION	1251	1	2251	55		tor rapty within		110.00
1. BASIC FILING FEE	1252		2262	215		for reply within		L
Large Entity Small Entity For For For Pale	1253		2253	480		tot rebih mituru		<b>├</b>
Fee Fee Fee Fee Fee Fee Paid Gode (\$) Code (\$)	1254		2254	76 <del>5</del>		tor repty within	•	L
1001 790 2001 395 Utility filing fee	1255		2255	•		tor tebih mitulu	ं प्रिप्तः स्ववसात	<u></u>
1002 350 2002 175 Design filling fee	1401		2401	170				ļ
1004 790 2004 395 Residue films fee	1402		2402		_	lot olai vesuud vet iv sribbou o	* *	<b>—</b>
1004 790 2004 395 Roupsule filing fee 1005 160 2006 80 Provisional titing fee	1451					_	phe use proceeding	<del></del>
·	1452	.,	2452			D LEANING — GLENO	•	<u> </u>
SUBTOTAL (1) (\$) 000	1453	3 1,370	2453			ס ופאואה - אטיענפו		
2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE			1		Utility issu	나는 [ <del>80</del> (Ot 18:634:	, (to-	
Extra Foo from Claims bulow Fee Paid	1502		2502			sue fee		<u></u>
Total Cisims -20** * x	1503		2503					
Inuependent 3 = A = = =	1460		1450			to the Commiss		L
Wallishe Deheudeur	1807	7 50	1807			ng tee under 37	•	
Large Enuty Small Entity	1806	6 160	1508	180			on Disclosure Stmi	
For For For For Code (5) For Description	8021	1 40	8021	40		g each patent a: (umes number o		ſ _
1202 18 2202 9 Clarins in excess of 20	1809	9 790	2809	395	Filing a su (S7 CFR )	ubmission after 1 129(a)}	r final rejection	
1201 88 2201 44 independent claims in excess of 3 1203 300 2203 150 Multiple dependent claim, if not paid	1810	0 790	2810	395	Foreachi	Additional invent d (37CFR 1.129		
1204 88 2204 44 ** Reissue independent claims	1801		2801				9(D)) Examination (RCE)	
over onginal patent	1802	•	1802		Request fo	for expedited ca		
1205 18 2205 9 Reissus claims in excess of 20 and over original patent		er 160 (608	1.	1814	of a design	Su abblication		220 0
	_	: dreed by			-		TAL (3) (5)	330 0
SUBTOTAL (2) (5) 0 00  "or number previously pain, if greater, For Reissues, see above	4		5351	ildNg i ⊏.	9 Pun,	3W0	TAL (3) Her	
SUBMITTED BY	-		<del></del>	===		(Complete	(# аррисар(а))	
Name (ProvType) Kevin J. Canning		ISTRATION N		5,470				<u>~~~~</u>
Segnaturo 9 MW J.	(ARcs.	пину/Адыпі	4-1-	1, Tr . C		Date	November 1, 2	
1, 2, 2, 2, 2, 2, 2, 2, 2, 2, 2, 2, 2, 2,			—			<b></b>	<del> </del>	<del></del>
							·	
I nereby certify that this correspondence is being facalmili	** "(3OS	T Dem			Trader	Office f		977.
9308 at M5 Amendment, Commissioner for Patents, P.O.								872-
True minute in a community of the commun		Win	~ (	-		,		

# RECEIVED P.05/24 F-246 CENTRAL FAX CENTER

NOV 0 1 2004

U.S. Serial No. 09/852,070

SMQ-122/P6281

# Certificate of Transmission Under 37 CFR 1.8

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office

on	November 1, 2004
	Date
	No. 1
	Kenn J.
	Signature
	Kevin J. Canning
	Typed or printed name of person signing Certificate

Note: Each paper must have its own certificate of transmission, or this certificate must identify each submitted paper

Transmittal (1 page);

Fee Transmittal (1 page, in duplicate);

Amendment in Response to Non-Final Office Action (15 pages); Two (2) Terminal Disclaimers to Obviate a Provisional Double Patent Rejections Over a Pending "Reference" Application for U.S. Patent Application Serial Nos. 09/852,113 and 09/851,923 (2 pages);

Statement Under 37 CFR 3 73(b) (1 page):

One-Month Request for Extension of Time Under 37 CFR 1.136(a)

(1 page); and

Certificate of Transmission under 37 CFR 1.8 (1 page).

The Commissioner is authorized to charge \$110 00 to Deposit Account 12-0080.